

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Request by LoJack Corporation of a)	
Partial Waiver of Section)	WT Docket No. 06-142
90.20(e)(6) and Part 2 of the)	
Commission's Rules)	

OPPOSITION TO PETITION FOR RECONSIDERATION

The LoJack Corporation ("LoJack"), by its attorneys, hereby opposes the Petition for Reconsideration ("Petition") filed by Hammett & Edison, Inc., Consulting Engineers ("Hammett & Edison"),¹ and requests that the Public Safety and Homeland Security Bureau ("Bureau") dismiss the Petition promptly, pursuant to Section 1.106(p) of the rules of the Federal Communications Commission ("Commission").²

The Petition challenges the Bureau's Declaratory Ruling and Order, which provided for the activation and tracking by mobile and portable devices on the Stolen Vehicle Recovery Systems ("SVRS") frequency, 173.075 MHz.³ Specifically, the Order: 1) issued a declaratory ruling allowing for the activation of frequency 173.075 MHz using mobile and portable devices; 2) issued a waiver allowing any Public Safety Pool eligible to transmit activation signals using mobile and portable SVRS devices; and 3) issued a waiver allowing for an activation command duty cycle of up to 1000 milliseconds every 8 seconds.⁴

¹ *Request by LoJack Corporation for a Partial Waiver of Section 90.20(e)(6) and Part 2 of the Commission's Rules*, Petition for Reconsideration of Hammett & Edison, Inc., Consulting Engineers, WT Docket No. 06-142 (filed Oct. 3, 2011) ("Petition").

² 47 C.F.R. § 1.106(p).

³ *Request by LoJack Corporation for a Partial Waiver of Section 90.20(e)(6) and Part 2 of the Commission's Rules*, Declaratory Ruling and Order, WT Docket No. 06-142 (Sept. 14, 2011) ("Order")

⁴ Order at ¶ 23.

The Petition does not warrant reconsideration by the Bureau, as it fails to identify any material error; relies on facts and arguments that could have been previously presented in the proceeding but were not; and relies on arguments that were fully considered and rejected in the proceeding.⁵ Moreover, even if the Bureau were to consider the arguments, they should be given no weight as they are inaccurate and do not support reversal of the Order.

BACKGROUND

In June 2010, LoJack filed a Request for Partial Waiver seeking the ability to activate the SVRS frequency using portable devices, as well as the ability of non-police Public Safety Pool eligibles to activate the frequency when searching for missing persons.⁶ LoJack's request was placed on public notice for comment, and the public notice asked in part about the impact of the proposed waiver on Channel 7 operations. Hammett & Edison filed comments and reply comments on the subject of potential interference to Channel 7 operations. Hammett & Edison made the same arguments that it has put forth in the Petition, to wit:

- That it would be premature to grant the waiver, on the basis that the ULS provides no way to determine whether the waiver would increase the interference risk to Channel 7 stations due to a greater number of users;⁷
- That laboratory tests must be conducted on the effects of SVRS equipment on DTV tuners, as "the Commission has ignored the fact that the protected contour of a DTV Channel 7 would be at least 17 dB weaker than the analog contour . . . ;"⁸ and

⁵ See 47 C.F.R. § 1.106(p).

⁶ *Request for a Partial Waiver of Section 90.20(e)(6) and Part 2 of the Commission's Rules*, WT Docket No. 06-142 (filed June 20, 2010) ("Waiver Request"). LoJack subsequently amended the request on July 28, 2011, seeking a modification of its activation duty cycle.

⁷ Comments of Hammett & Edison, Inc., WT Docket No. 06-142 (filed Feb. 8, 2011).

⁸ Reply Comments of Hammett & Edison, Inc., WT Docket No. 06-142, at 1 (filed Feb. 18, 2011).

- That the Bureau must delay a decision until the Commission completes a pending rulemaking on the issue of UHF DTV interference.⁹

As LoJack explained in response to these arguments the first time that they were made in this proceeding, the availability of SVRS user information in ULS is irrelevant, as in every state in which LoJack operates only one police entity holds the SVRS license or licenses covering all base stations and mobile use for LoJack's network in that state.¹⁰ Thus, allowing any Public Safety Pool member to activate the frequency via a mobile device would not increase the number of SVRS licensees. LoJack also explained that grant of the waiver would allow the appropriate responding law enforcement agency to activate the frequency when a search for missing persons is required. For the most part a municipality's fire department or rescue squad, rather than its police department, would use a mobile activation device to activate the frequency in order to search for missing persons.¹¹ For this reason, grant of the waiver would not increase the number of users on the frequency. LoJack also noted that the SVRS frequency was intended to be shared among several SVRS providers, and therefore LoJack's network was able to accommodate additional users, including a large number of additional mobile units, without concern for increased interference to Channel 7.¹²

LoJack additionally pointed out that the Commission's main concern with regard to Channel 7 interference is base station operations, not mobile operations, and that the Commission requires Channel 7 interference analysis only for base station locations,¹³ while it rejected a testing requirement for mobile units.¹⁴ Finally, LoJack explained that its low-power, low-range mobile devices, which likely will be used no more than one

⁹ Reply Comments of Hammett & Edison at 2.

¹⁰ Reply Comments of LoJack Corporation, WT Docket No. 06-142 at 2-3 (filed Feb. 18, 2011).

¹¹ *Id.*

¹² *Id.*

¹³ See 47 C.F.R. § 90.20(e)(6)(viii).

¹⁴ *In the Matter of Amendment of Section 90.20(e)(6) of the Commission's Rules*, Report and Order, 23 FCC Rcd 12601, at ¶ 14 (2008).

time per month in any geographical area, pose *de minimis* risk of interference to Channel 7.¹⁵

DISCUSSION

The Bureau's Order is supported by the record and consistent with FCC precedent. The Order addressed the issues raised in Hammett & Edison's Reconsideration Petition. The Bureau noted that digital Channel 7 stations have co-existed with SVRS base stations without any reported problems, and that SVRS mobile stations use significantly lower power than the base stations.¹⁶ The Bureau also determined, for many of the reasons put forth by LoJack, as discussed above, that allowing non-police public safety eligibles to activate the frequency under the conditions set out in the waiver would not increase potential for interference to Channel 7.¹⁷ The Bureau declined to delay action until testing of consumer-grade DTV tuners was complete, determining that previous test results show that "existing DTV receivers have about 19 dB better interference rejection performance than analog receivers" ¹⁸

Hammett & Edison appears to argue that the Bureau erred in three ways:

- In finding that there would be no increased potential for interference by allowing non-police Public Safety Pool eligibles to activate the frequency using mobile or portable devices, something Hammett & Edison wrongly equates to a "massive expansion of entities eligible to make SVRS transmissions;"¹⁹

¹⁵ Reply Comments of LoJack Corporation at 2-3.

¹⁶ Order at n.73.

¹⁷ Order at ¶ 17.

¹⁸ Order at ¶ 18.

¹⁹ Petition at ¶ ¶ 1-2. They also argue that LoJack will continue expanding its use of the frequency, an issue not raised during the proceeding and one for which they do not appear to claim specific error. Thus, the Bureau should not consider this argument. *See* 47 C.F.R. § 1.106(p)(1) and (2).

- By concluding “that a SVRS signal . . . will be incapable of causing interference to DTV reception” based on a “flawed” finding that DTV signals have a 19 dB better immunity than analog receivers;²⁰ and
- By increasing the allowable SVRS duty cycle when the record does not support a finding that doing so would not increase interference to DTV Channel 7.²¹

The Petition should be dismissed because it relies on facts and arguments that either could have been presented but were not, or that were presented but fully considered and rejected by the Bureau. Specifically, the argument about the impact of changing the allowable public safety users²² was considered and rejected by the Bureau, which relied in part on the plethora of counter facts arguments put forth by LoJack, as detailed above.²³

Similarly, the Bureau considered and rejected Hammett & Edison’s requests to delay a decision pending new testing, choosing to rely on existing Office of Engineering and Technology (“OET”) reports.²⁴ The Bureau’s decision is supported by past Commission precedent, namely a 2008 rulemaking revising the SVRS rules, which determined that sufficient testing had been conducted to determine the difference between analog and digital TV receivers in their susceptibility to interference.²⁵

Moreover, as the Bureau noted, the OET report already addressed the issues now raised by Hammett & Edison regarding the differences between analog and digital TV contours.²⁶ As explained in the attached Technical Statement, the Bureau’s use of -33 dB for the desired-to-undesired (“D/U”)

²⁰ Petition at ¶ 4.

²¹ Petition at ¶ 10.

²² See Petition at ¶¶ 1-2.

²³ Order at n. 73 and ¶ 17-18.

²⁴ Order at ¶ 18.

²⁵ *In the Matter of Amendment of Section 90.20(e)(6) of the Commission’s Rules*, 23 FCC Rcd 12601 at ¶ 14 and n.62 (finding that “the error correction capabilities of DTV receivers should be more than adequate to compensate for any interference caused by an adjacent channel narrowband signal.”).

²⁶ *Id.*

threshold ratio was not only correct, but in fact is a more conservative estimate of the DTV interference rejection performance than what is supported by test data previously accepted by the FCC.²⁷ And, the Technical Statement confirms that the Bureau conducted a valid interference analysis and was correct in concluding that DTV receivers are more tolerant to LoJack transmissions than are analog receivers.²⁸

With regard to Hammett & Edison's argument that the increase in the activation duty cycle would increase interference potential to Channel 7,²⁹ the Bureau considered this issue and found for base station activations that the "new duty cycle will tend to shorten the total time during which the transmitter is active."³⁰ And with regard to mobile activations, it found that the proposed duty cycle is the same pulse duration and period as the existing mobile duty cycle.³¹ In fact, paragraph 10 of the Petition is quite misleading, as it conflates the three separate LoJack duty cycles – base station, mobile while tracking, and mobile activation – into one, erroneously concluding that there has been a 20-fold increase in duty cycle when in fact the changes have been considerably less than that. For these reasons as well, the Bureau was correct and there is no need to reconsider its order.

²⁷ du Treil, Lundin & Rackley, Inc., Consulting Engineers, "Technical Statement in Response to a Petition for Reconsideration; LoJack Stolen Vehicle Recover System" (Oct. 17, 2011) (attached).

²⁸ *Id.*

²⁹ Petition at ¶ 10.

³⁰ Order at ¶ 21.

³¹ *Id.*

CONCLUSION

Therefore, for the reasons set forth above as well as those stated in the record of this proceeding, LoJack respectfully requests that the Bureau promptly dismiss the Petition for Reconsideration.

Respectfully submitted,

LOJACK CORPORATION

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October 17, 2011

CERTIFICATE OF SERVICE

I hereby declare that the foregoing Opposition to Petition for Reconsideration was served on October 17, 2011, via First Class Mail, postage prepaid, upon:

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